

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge John F. Keenan
United States District Court
Southern District of New York

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vrtil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

DIRECT REPLY TO:

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Thurgood Marshall Federal
Judiciary Building
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<http://www.jpml.uscourts.gov>

March 2, 2006

TO INVOLVED COUNSEL

Re: MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability Litigation

(See Attached Schedule CTO-43)

Dear Counsel:

Attached hereto is a copy of a conditional transfer order filed today by the Panel involving the above-captioned matter. This matter is transferred pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001). Copies of Rule 5.2, dealing with service, and Rules 7.4 and 7.5, regarding "tag-along" actions, are attached for your convenience.

Inasmuch as there is an unavoidable time lag between notification of the pendency of the tag-along action and the filing of a conditional transfer order, counsel are required by Rule 7.4(b) to notify this office **BY FACSIMILE**, at (202) 502-2888, of any official changes in the status of the tag-along action. These changes could involve dismissal of the action, remand to state court, transfer to another federal court, etc., as indicated by an order filed by the district court. Your cooperation would be appreciated.

NOTICE OF OPPOSITION DUE ON OR BEFORE: March 17, 2006 (4 p.m. EST)
(Facsimile transmission is suggested.)

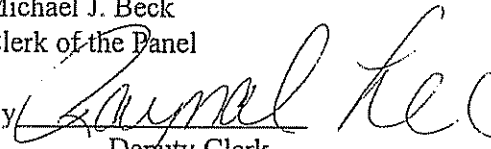
If you are considering opposing this conditional transfer order, please review Rules 7.4 and 7.5 of the Panel Rules before filing your Notice of Opposition.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By


Deputy Clerk

Attachments

JPML Form 39



JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

MAR - 2 2006

FILED
CLERK'S OFFICE

DOCKET NO. 1657

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

*IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY
LITIGATION*

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-43)

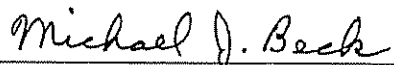
On February 16, 2005, the Panel transferred 138 civil actions to the United States District Court for the Eastern District of Louisiana for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. Since that time, 3,259 additional actions have been transferred to the Eastern District of Louisiana. With the consent of that court, all such actions have been assigned to the Honorable Eldon E. Fallon.

It appears that the actions on this conditional transfer order involve questions of fact which are common to the actions previously transferred to the Eastern District of Louisiana and assigned to Judge Fallon.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Eastern District of Louisiana for the reasons stated in the order of February 16, 2005, 360 F.Supp.2d 1352 (J.P.M.L. 2005), and, with the consent of that court, assigned to the Honorable Eldon E. Fallon.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of Louisiana. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:



Michael J. Beck
Clerk of the Panel

SCHEDULE CTO-43 - TAG-ALONG ACTIONS
DOCKET NO. 1657
IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY
LITIGATION

DIST. DIV. C.A. #CASE CAPTION

ALABAMA MIDDLE

ALM 2 06-127
 ALM 3 06-128

James O. Struthers, etc. v. Merck & Co., Inc., et al.
 Rosemary Leverett, etc. v. Merck & Co., Inc., et al.

ALABAMA NORTHERN

ALN 2 06-184
 ALN 2 06-226
 ALN 2 06-269
 ALN 2 06-315
 ALN 6 06-143
 ALN 7 06-281

Martha Faircloth, etc. v. Merck & Co., Inc.
 Louise Partin v. Merck & Co., Inc., et al.
 Freddie Walker Arnold, et al. v. Merck & Co., Inc.
 Robert Glenn v. Merck & Co., Inc.
 ReDonna Earle Wakefield Miller, etc. v. Merck & Co., Inc., et al.
 Virginia A. Rogers v. Merck & Co., Inc.

ALABAMA SOUTHERN

ALS 1 06-44

Robert Shawn Roach, et al. v. Merck & Co., et al.

ARKANSAS WESTERN

ARW 4 06-4011

Dale A. Rogers v. Merck & Co., Inc.

ARIZONA

AZ 4 06-42

Gerald Tuggle, et al. v. Merck & Co., Inc.

CALIFORNIA EASTERN

CAE 2 06-241
 CAE 2 06-281
 CAE 2 06-324
 CAE 2 06-330

Carol Lewis v. Merck & Co., Inc., et al.
 Andrew Garrick, et al. v. Merck & Co., Inc., et al.
 Manuel Chavez, et al. v. Merck & Co., Inc., et al.
 William Morning, etc. v. Merck & Co., Inc., et al.

CALIFORNIA NORTHERN

CAN 3 05-4949
 CAN 3 06-424
 CAN 3 06-716

Mary Zumut v. Merck & Co., Inc.
 Marvin Knox v. Merck & Co., Inc.
 Marilyn Artieres, etc. v. Merck & Co., Inc.

FLORIDA MIDDLE

FLM 2 06-61
 FLM 2 06-62
 FLM 3 06-104
 FLM 3 06-105

Natalie Jane Stewart v. Merck & Co., Inc., et al.
 Susan Wright, etc. v. Merck & Co., Inc., et al.
 Ruby A. Barbaree v. Merck & Co., Inc.
 Laura D. Page, et al. v. Merck & Co., Inc.

FLORIDA SOUTHERN

FLS 1 06-20227
 FLS 9 06-80117

Gloria Jean Thomas v. Merck & Co., Inc.
 Edward Hettiger, etc. v. Merck & Co., Inc., et al.

IOWA NORTHERN

IAN 1 05-174

Paul Nadermann, et al. v. Merck & Co., Inc.

IOWA SOUTHERN

IAS 4 06-35

Christopher Wright, et al. v. Merck & Co., Inc.

SCHEDULE CTO-43 TAG-ALONG ACTIONS (MDL-1657)

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DIST. DIV. C.A. #CASE CAPTION

ILLINOIS NORTHERN

ILN 1 06-640
ILN 1 06-716Francisco Gonzalez, etc. v. Merck & Co., Inc.
Edward Freeman v. Merck & Co., Inc.

ILLINOIS SOUTHERN

ILS 3 06-63
ILS 3 06-64
ILS 3 06-65
ILS 3 06-92
ILS 3 06-93Willis Fuller, et al. v. Merck & Co., Inc.
Robert Paskero v. Merck & Co., Inc., et al.
Eugene Perry, et al. v. Merck & Co., Inc.
Billy Lathan v. Merck & Co., Inc.
Lena Done v. Merck & Co., Inc.

INDIANA NORTHERN

INN 1 05-417

Teresa Meyer, etc. v. Merck & Co., Inc.

INDIANA SOUTHERN

INS 2 06-27
INS 2 06-33Anita Jane Taylor, et al. v. Merck & Co., Inc.
Vernon Dickerson, et al. v. Merck & Co., Inc.

KENTUCKY WESTERN

KYW 3 05-559

Betty Sims v. Merck & Co., Inc.

LOUISIANA WESTERN

LAW 2 06-133
LAW 5 05-2249Huey Elija Pete, etc. v. Merck & Co., Inc., et al.
Estate of Martha Riser v. Merck & Co., Inc.

MARYLAND

MD 1 06-309
MD 1 06-313
MD 1 06-324Burnell Davis v. Merck & Co., Inc.
Vick C. Smith, et al. v. Merck & Co., Inc.
Carry L. Jackson, et al. v. Merck & Co., Inc.

MICHIGAN EASTERN

MIE 1 06-10364

Edward Thomas v. Merck & Co., Inc.

MINNESOTA

MN 0 06-423
MN 0 06-432
MN 0 06-466
MN 0 06-474
MN 0 06-486
MN 0 06-488
MN 0 06-489
MN 0 06-499
MN 0 06-500
MN 0 06-527
MN 0 06-530
MN 0 06-623Alan Bachman v. Merck & Co., Inc.
Lynda Redmond v. Merck & Co., Inc.
Ronald Strelow, et al. v. Merck & Co., Inc.
Annette Johnson, etc. v. Merck & Co., Inc.
Cathlean Tittle, etc. v. Merck & Co., Inc.
Marlene Mannstedt, et al. v. Merck & Co., Inc.
David Redmond, et al. v. Merck & Co., Inc.
JoAnn Gullickson v. Merck & Co., Inc.
Betty Aune, etc. v. Merck & Co., Inc.
John Drobnick, et al. v. Merck & Co., Inc.
Willie E. Sadberry, etc. v. Merck & Co., Inc.
Robert Hunter, etc. v. Merck & Co., Inc.

MISSOURI EASTERN

MOE 4 06-167

Loretta Bennett v. Merck & Co., Inc.

MISSISSIPPI NORTHERN

MSN 4 06-25

Louise McElroy v. Merck & Co., Inc., et al.

SCHEDULE CTO-43 TAG-ALONG ACTIONS (MDL-1657)

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DIST. DIV. C.A. #CASE CAPTION

NEW YORK EASTERN

NYE	1	06-406	Basil Ebong, et al. v. Merck & Co., Inc.
NYE	1	06-490	Karen Padova v. Merck & Co., Inc.
NYE	1	06-629	Joan Reinhardt v. Merck & Co., Inc.

NEW YORK NORTHERN

NYN	3	06-114	Ralph Pratt, et al. v. Merck & Co., Inc.
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NEW YORK SOUTHERN

NYS	1	06-545	Camille Gomez, et al. v. Merck & Co., Inc.
NYS	1	06-792	Thomas Jackson v. Merck & Co., Inc.

NEW YORK WESTERN

NYW	6	06-6065	Gergory Paterniti v. Merck & Co., Inc., et al.
NYW	6	06-6066	George Adams v. Merck & Co., Inc., et al.
NYW	6	06-6067	David Grace v. Merck & Co., Inc., et al.
NYW	6	06-6068	Deborah Stroka v. Merck & Co., Inc., et al.
NYW	6	06-6069	Bruce Stenzel v. Merck & Co., Inc., et al.
NYW	6	06-6070	Beverley Porter v. Merck & Co., Inc., et al.
NYW	6	06-6074	Ronald Ciura, etc. v. Merck & Co., Inc., et al.
NYW	6	06-6075	Eugenia B. Lukasik, etc. v. Merck & Co., Inc., et al.
NYW	6	06-6090	Michael Farciglia, et al. v. Merck & Co., Inc., et al.
NYW	6	06-6091	Kristie L. Maracle, etc. v. Merck & Co., Inc., et al.
NYW	6	06-6097	Pauline Dempsey v. Merck & Co., Inc., et al.

OHIO NORTHERN

OHN	1	06-274	Emily Joseph-Klein, etc. v. Merck & Co., Inc.
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OKLAHOMA EASTERN

OKE	6	06-63	Darla Harris, etc. v. Merck & Co., Inc.
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OKLAHOMA NORTHERN

OKN	4	06-49	Linda Rountree, et al. v. Merck & Co., Inc., et al.
OKN	4	06-64	Jimmie Neal Pope, et al. v. Merck & Co., Inc.

OKLAHOMA WESTERN

OKW	5	06-157	William Pickle, Sr. v. Merck & Co., Inc.
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PENNSYLVANIA EASTERN

PAE	2	06-263	Alphonso Maxwell, Jr. v. Merck & Co., Inc.
PAE	2	06-272	Michael Getz, et al. v. Merck & Co., Inc.
PAE	2	06-388	Robbie Tallas, et al. v. Merck & Co., Inc., et al.
PAE	2	06-389	Robbie Tallas, et al. v. Merck & Co., Inc., et al.
PAE	2	06-507	Deborah Veysey, et al. v. Merck & Co., Inc., et al.
PAE	2	06-575	George V. Edwards, et al. v. Merck & Co., Inc., et al.
PAE	2	06-639	Carol Jones, etc. v. Merck & Co., Inc., et al.

PENNSYLVANIA WESTERN

PAW	2	06-144	Drew Schuckman v. Merck & Co., Inc.
PAW	2	06-145	Theodore Graban, Jr., et al. v. Merck & Co., Inc.

RHODE ISLAND

RI	1	06-65	Frank Detorie, et al. v. Merck & Co., Inc., et al.
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SCHEDULE CTO-43 TAG-ALONG ACTIONS (MDL-1657)

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DIST. DIV. C.A. #CASE CAPTION

SOUTH CAROLINA

SC 3 05-2548
SC 3 06-299

Robert Don Ashworth, et al. v. Merck & Co., Inc.
Caroline Seigler, et al. v. Merck & Co., Inc.

TEXAS EASTERN

TXE 1 06-31
TXE 1 06-40
TXE 2 06-49
TXE 5 06-28
TXE 6 06-54

Donald R. Goodwin, et al. v. Merck & Co., Inc.
Michael Lavon Fletcher, et al. v. Merck & Co., Inc.
Thomas Rudd v. Merck & Co., Inc.
Walter Joe Skelton v. Merck & Co., Inc.
Brenda Jones v. Merck & Co., Inc.

TEXAS NORTHERN

TXN 3 06-248

Christopher Baker v. Merck & Co., Inc.

TEXAS SOUTHERN

TXS 1 06-14
TXS 2 06-53
TXS 2 06-56
TXS 3 06-68
TXS 3 06-85
TXS 4 06-312
TXS 4 06-313
TXS 4 06-315
TXS 4 06-316
TXS 4 06-317
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TXS 4 06-365
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TXS 4 06-369
TXS 4 06-370
TXS 4 06-373
TXS 4 06-374
TXS 4 06-375
TXS 4 06-410
TXS 4 06-444
TXS 5 06-16
TXS 6 06-8
TXS 7 06-21

Santos Fraga, et al. v. Merck & Co., Inc., et al.
Beatriz Garcia, et al. v. Merck & Co., Inc., et al.
Amanda Salinas, et al. v. Merck & Co., Inc., et al.
Judith Ann Watson v. Merck & Co., Inc.
Eva Lamb v. Merck & Co., Inc.
Debra McCain v. Merck & Co., Inc.
Frank Taylor v. Merck & Co., Inc.
Corine Harmon v. Merck & Co., Inc.
Oralia Jacques v. Merck & Co., Inc.
Robenia Brooks v. Merck & Co., Inc.
James Coleman v. Merck & Co., Inc.
Ella Hutchinson v. Merck & Co., Inc.
Joyce Taylor v. Merck & Co., Inc.
Clydene Daskey v. Merck & Co., Inc.
Dolores Beyer v. Merck & Co., Inc.
Jerry Yeane v. Merck & Co., Inc.
Gloria Brooks v. Merck & Co., Inc.
Cynthia David v. Merck & Co., Inc.
Gloria Baiamonte v. Merck & Co., Inc.
Virginia Jones v. Merck & Co., Inc.
John Gustafson v. Merck & Co., Inc.
Brenda Diana Primus v. Merck & Co., Inc.
Pedro J. Moreno, Jr. v. Merck & Co., Inc.
Arie Anderson, et al. v. Merck & Co., Inc.
Gloria Martinez Nicar v. Merck & Co., Inc.
Janet Douglas, et al. v. Merck & Co., Inc.
Esperanza Garcia, et al. v. Merck & Co., Inc., et al.
Raymond O'Brien, et al. v. Merck & Co., Inc.
Juanita Alvarado, et al. v. Merck & Co., Inc., et al.

UTAH

UT 2 06-70
UT 2 06-110
UT 2 06-111

Sharon Balfour v. Merck & Co., Inc.
Myron Sorenson, et al. v. Merck & Co., Inc.
Don Iverson, et al. v. Merck & Co., Inc.

RULE 5.2: SERVICE OF PAPERS FILED

(a) All papers filed with the Clerk of the Panel shall be accompanied by proof of previous or simultaneous service on all other parties in all actions involved in the litigation. Service and proof of service shall be made as provided in Rules 5 and 6 of the Federal Rules of Civil Procedure. The proof of service shall indicate the name and complete address of each person served and shall indicate the party represented by each. If a party is not represented by counsel, the proof of service shall indicate the name of the party and the party's last known address. The proof of service shall indicate why any person named as a party in a constituent complaint was not served with the Section 1407 pleading. The original proof of service shall be filed with the Clerk of the Panel and copies thereof shall be sent to each person included within the proof of service. After the "Panel Service List" described in subsection (d) of this Rule has been received from the Clerk of the Panel, the "Panel Service List" shall be utilized for service of responses to motions and all other filings. In such instances, the "Panel Service List" shall be attached to the proof of service and shall be supplemented in the proof of service in the event of the presence of additional parties or subsequent corrections relating to any party, counsel or address already on the "Panel Service List."

(b) The proof of service pertaining to motions for transfer of actions pursuant to 28 U.S.C. §1407 shall certify that copies of the motions have been mailed or otherwise delivered for filing to the clerk of each district court in which an action is pending that will be affected by the motion. The proof of service pertaining to a motion for remand pursuant to 28 U.S.C. §1407 shall certify that a copy of the motion has been mailed or otherwise delivered for filing to the clerk of the Section 1407 transferee district court in which any action affected by the motion is pending.

(c) Within eleven days of filing of a motion to transfer, an order to show cause or a conditional transfer order, each party or designated attorney shall notify the Clerk of the Panel, in writing, of the name and address of the attorney designated to receive service of all pleadings, notices, orders and other papers relating to practice before the Judicial Panel on Multidistrict Litigation. Only one attorney shall be designated for each party. Any party not represented by counsel shall be served by mailing such pleadings to the party's last known address. Requests for an extension of time to file the designation of attorney shall not be granted except in extraordinary circumstances.

(d) In order to facilitate compliance with subsection (a) of this Rule, the Clerk of the Panel shall prepare and serve on all counsel and parties not represented by counsel, a "Panel Service List" containing the names and addresses of the designated attorneys and the party or parties they represent in the actions under consideration by the Panel and the names and addresses of the parties not represented by counsel in the actions under consideration by the Panel. After the "Panel Service List" has been received from the Clerk of the Panel, notice of subsequent corrections relating to any party, counsel or address on the "Panel Service List" shall be served on all other parties in all actions involved in the litigation.

(e) If following transfer of any group of multidistrict litigation, the transferee district court appoints liaison counsel, this Rule shall be satisfied by serving each party in each affected action and all liaison counsel. Liaison counsel designated by the transferee district court shall receive copies of all Panel orders concerning their particular litigation and shall be responsible for distribution to the parties for whom he or she serves as liaison counsel.

RULE 7.4: CONDITIONAL TRANSFER ORDERS FOR "TAG-ALONG ACTIONS"

(a) Upon learning of the pendency of a potential "tag-along action," as defined in Rule 1.1 of these Rules, an order may be entered by the Clerk of the Panel transferring that action to the previously designated transferee district court on the basis of the prior hearing session(s) and for the reasons expressed in previous opinions and orders of the Panel in the litigation. The Clerk of the Panel shall serve this order on each party to the litigation but, in order to afford all parties the opportunity to oppose transfer, shall not send the order to the clerk of the transferee district court for fifteen days from the entry thereof.

(b) Parties to an action subject to a conditional transfer order shall notify the Clerk of the Panel within the fifteen-day period if that action is no longer pending in its transferor district court.

(c) Any party opposing the transfer shall file a notice of opposition with the Clerk of the Panel within the fifteen-day period. If a notice of opposition is received by the Clerk of the Panel within this fifteen-day period, the Clerk of the Panel shall not transmit said order to the clerk of the transferee district court until further order of the Panel. The Clerk of the Panel shall notify the parties of the briefing schedule.

(d) Within fifteen days of the filing of its notice of opposition, the party opposing transfer shall file a motion to vacate the conditional transfer order and brief in support thereof. The Chairman of the Panel shall set the motion for the next appropriate hearing session of the Panel. Failure to file and serve a motion and brief shall be treated as withdrawal of the opposition and the Clerk of the Panel shall forthwith transmit the order to the clerk of the transferee district court.

(e) Conditional transfer orders do not become effective unless and until they are filed with the clerk of the transferee district court.

(f) Notices of opposition and motions to vacate such orders of the Panel and responses thereto shall be governed by Rules 5.12, 5.2, 7.1 and 7.2 of these Rules.

RULE 7.5: MISCELLANEOUS PROVISIONS CONCERNING "TAG-ALONG ACTIONS"

(a) Potential "tag-along actions" filed in the transferee district require no action on the part of the Panel and requests for assignment of such actions to the Section 1407 transferee judge should be made in accordance with local rules for the assignment of related actions.

(b) Upon learning of the pendency of a potential "tag-along action" and having reasonable anticipation of opposition to transfer of that action, the Panel may direct the Clerk of the Panel to file a show cause order, in accordance with Rule 7.3 of these Rules, instead of a conditional transfer order.

(c) Failure to serve one or more of the defendants in a potential "tag-along action" with the complaint and summons as required by Rule 4 of the Federal Rules of Civil Procedure does not preclude transfer of such action under Section 1407. Such failure, however, may be submitted by such a defendant as a basis for opposing the proposed transfer if prejudice can be shown. The inability of the Clerk of the Panel to serve a conditional transfer order on all plaintiffs or defendants or their counsel shall not render the transfer of the action void but can be submitted by such a party as a basis for moving to remand as to such party if prejudice can be shown.

(d) A civil action apparently involving common questions of fact with actions under consideration by the Panel for transfer under Section 1407, which was either not included in a motion under Rule 7.2 of these Rules, or was included in such a motion that was filed too late to be included in the initial hearing session, will ordinarily be treated by the Panel as a potential "tag-along action."

(e) Any party or counsel in actions previously transferred under Section 1407 or under consideration by the Panel for transfer under Section 1407 shall promptly notify the Clerk of the Panel of any potential "tag-along actions" in which that party is also named or in which that counsel appears.

INVOLVED COUNSEL LIST (CTO-43)
DOCKET NO. 1657
IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY
LITIGATION

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INVOLVED COUNSEL LIST (CTO-43) MDL-1657

PAGE 2 of 5

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